

13 April 2016

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Disarmament Commission**2016 substantive session****New York, 4-22 April 2016****Agenda Item 4****G7 Foreign Ministers' Hiroshima Declaration on Nuclear Disarmament and Non-Proliferation****Hiroshima, Japan, 11 April 2016**

We emphasize the importance of our meeting in Hiroshima seventy one years after World War II, which unleashed unprecedented horror upon the world. The people of Hiroshima and Nagasaki experienced immense devastation and human suffering as a consequence of the atomic bombings and have rebuilt their cities so impressively.

In this historic meeting, we reaffirm our commitment to seeking a safer world for all and to creating the conditions for a world without nuclear weapons in a way that promotes international stability. This task is made more complex by the deteriorating security environment in a number of regions, such as Syria and Ukraine, and, in particular by North Korea's repeated provocations.

We welcome conclusion and continuing implementation of the Joint Comprehensive Plan of Action (JCPOA) between E3/EU+3 and Iran, which demonstrates the resilience of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) as the cornerstone of the international non-proliferation architecture. We are determined that the JCPOA be fully and rigorously implemented, for which the verification activities of the International Atomic Energy Agency (IAEA) are key.

We emphasize our strong commitment to the NPT in all aspects. We urge states that have not yet done so to become parties to the NPT without delay and without conditions. We strongly support the full implementation of the provisions of the NPT across all three of its "pillars" (non-proliferation, disarmament, and the peaceful uses of nuclear energy). We reaffirm the central role of the IAEA and its safeguards system.

No state should conduct a nuclear test explosion and all states should sign and ratify the Comprehensive Nuclear-Test-Ban Treaty without delay and without conditions to achieve the early entry into force of the treaty. As a priority, we call

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upon the Conference on Disarmament to immediately begin negotiations on a treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices.

Over the years there have been significant reductions in nuclear arsenals of nuclear-weapon States. Further progress-whether unilateral, bilateral or multilateral-toward a world without nuclear weapons, can only be achieved if we take a determined, realistic and incremental approach, while enhancing international security. In accordance with Article VI of the NPT, we will be persistent and active advocates of continued reductions in nuclear weapons globally, and call upon all states to make such efforts.

We welcome the efforts taken by the nuclear-weapon States in the G7 that have enhanced transparency. We urge others to do the same.

We urge all states to work with us on practical and realistic initiatives that can promote meaningful dialogue on nuclear disarmament and non-proliferation among all, including between nuclear-weapon States and non-nuclear-weapon States.

It is essential to continue to strengthen national export controls on sensitive goods and technologies in order to prevent the proliferation of WMD to states and non-state actors. All states must implement fully all relevant UNSCRs including UNSCR 1540. We invite all states to contribute to the goal of non-proliferation by enforcing export controls consistent with the guidelines of the international export control regimes.

We will actively implement the Final Communiqué and the Action Plans of the 2016 Nuclear Security Summit and will support the central role of the IAEA in this area.

We are committed to the peaceful uses of nuclear energy and will continue to work with the IAEA to promote the highest standards of non-proliferation, nuclear safety and security.

For decades, political leaders like us and other visitors have come to Hiroshima and Nagasaki and been deeply moved. We hope others follow that path. We share the deep desire of the people of Hiroshima and Nagasaki that nuclear weapons never be used again.

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G7 Statement on Non-proliferation and Disarmament**Hiroshima, Japan****11 April 2016**

Since we, G7 members, met in Lübeck in April 2015, the international community has faced a number of serious challenges, regionally and globally, in the field of non-proliferation and disarmament such as North Korea's recent nuclear test and launch using ballistic missile technology; credible reports of chemical weapons use in Syria; increasing and credible allegations of chemical weapons use by ISIL/Da'esh in Syria and Iraq; and the proliferation of conventional arms to terrorists. The Joint Comprehensive Plan of Action (JCPOA) between the E3/EU+3 and Iran has successfully reached the phase of implementation, but the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was not able to reach consensus on the substantive part of the draft Final Document.

Against this background, as explicitly expressed in the G7 Foreign Ministers' Hiroshima Declaration, we are committed to seeking a safer world for all and to taking practical and concrete steps, enumerated as below, in the fields of nuclear disarmament and non-proliferation, nuclear security and safety, peaceful uses of nuclear energy, non-proliferation of other weapons of mass destruction (WMD), control of small arms and light weapons, and outer space.

Nuclear Disarmament and Non-Proliferation

1. In conjunction with the G7 Foreign Ministers' Hiroshima Declaration, we reaffirm our unconditional support for all three mutually reinforcing pillars of NPT, which remains the cornerstone of the nuclear non-proliferation regime and the essential foundation for the pursuit of nuclear disarmament in accordance with article VI and the peaceful uses of nuclear energy in accordance with article IV, and we underline the need for a strong NPT and full commitment by all NPT members to implement the Treaty in good faith. We urge States that have not yet done so to become parties to the NPT without delay and without conditions.



2. We acknowledge the right of withdrawal contained in article X of the NPT. This notwithstanding, we encourage NPT States Parties to reaffirm the importance of preventing the abuse of the NPT withdrawal provision, and recognize that the withdrawal of a State from the NPT erodes the Treaty's near universality and thereby damages the security of all other NPT States Parties.

3. We stress the critical importance of continuing to move forward during the review cycle leading up to the 2020 NPT Review Conference, with steady progress to implement the 2010 NPT Review Conference Action Plan. In this regard, we welcome the role that members of the Non-Proliferation and Disarmament Initiative (NPDI) have played to bridge divisions among NPT States Parties and note the recommendation for reporting templates submitted by the NPDI. We call upon all States Parties to report on their pertinent activities to the NPT community, consistent with the 2010 NPT Action Plan.

4. We reaffirm that the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) constitutes a key priority and, on the occasion of the twentieth anniversary of its opening for signature, urge all States to sign and ratify the CTBT without delay and without conditions. Pending its entry into force all States should maintain all existing voluntary moratoriums on nuclear weapon test explosions or any other nuclear explosion and refrain from acts that would defeat the object and purpose of the CTBT.

5. We commend the work undertaken by the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), including the establishment of a comprehensive verification regime, and in particular the International Monitoring System (IMS) and International Data Centre (IDC), which have proven their effectiveness by providing substantive and reliable data on nuclear tests by North Korea, such as the one conducted on 6 January this year in flagrant violation of its international obligations. We encourage further development of the IMS and the IDC, and commit, in accordance with applicable laws and regulations, to providing strong political support and adequate resources to complete the Treaty's verification regime.

6. We appreciate the work of Japan and Kazakhstan, as the current Co-Coordination of the Article XIV Process to Facilitate the Entry into Force of the CTBT, to promote further ratifications and the Treaty's entry into force.

7. We call upon Annex II States that have not yet signed and/or ratified the Treaty, as a next possible step, if they have not already done so, to engage in order to develop the IMS as fully as possible. At the same time, we welcome the support for the IMS by the G7, which has contributed more than US\$ 100 million in voluntary contributions to CTBT-related projects over the past five years.

8. We welcome renewed efforts, and we encourage all Member States of the Conference on Disarmament (CD) to exert their utmost efforts to break the impasse at the CD through the early adoption of a programme of work that prioritizes the immediate commencement of negotiations of a Fissile Material Cut-off Treaty (FMCT), based on the consensus report issued by the Canadian-initiated Group of Governmental Experts and taking into consideration France's proposal for a draft FMCT in 2015.

9. We urge all States to declare and maintain moratoriums on the production of fissile material for nuclear weapons or other nuclear explosive devices pending the entry into force of an FMCT.

10. We attach great importance to the faithful implementation of existing disarmament and arms control treaties. We welcome the fifth anniversary of the entry into force of the New Strategic Arms Reduction Treaty (New START) between the United States and the Russian Federation, and we appreciate that the offer proposed by US President Obama in June 2013 to the Russian Federation for a new round of disarmament negotiations remains valid when circumstances are conducive to such negotiations. We also welcome the disarmament-related actions already taken by France and the United Kingdom, including the 2015 reduction by the UK of the number of operationally available warheads to no more than 120, and additional transparency measures by France regarding its nuclear arsenal. We call upon other states to join such efforts.

11. We emphasize that the Intermediate-Range Nuclear Forces (INF) Treaty, a landmark arms-control agreement that eliminated an entire class of weapons, is an important element of the European security architecture and broader international security and stability including in Asia, as well as a contribution by the United States, the Russian Federation and other States Parties to the fulfilment of their obligation under article VI of the NPT. In this context, we call upon the Russian Federation to preserve the viability of the INF Treaty by ensuring full and verifiable compliance.

12. We welcome the continuation of the P5's work together to build mutual trust and transparency, essential for further progress on nuclear disarmament. In that context, we note the submission of the reports provided at the 2015 NPT Review Conference by the five nuclear-weapon States in accordance with the 2010 NPT Review Conference Action Plan.

13. We attach great importance to bringing about the entry into force of relevant legally binding protocols of nuclear-weapon-free zone treaties, which would enhance regional and international security by helping to build confidence between nuclear-weapon States and non-nuclear-weapon States.

14. We welcome the signature and/or ratification by the five nuclear-weapon States of the Protocol to the Treaty on the Nuclear-Weapon-Free Zone in Central Asia and the commitment of the five nuclear-weapon States to continue consultations with the States Parties to the Treaty on the Southeast Asia Nuclear-Weapon-Free Zone, in order to work towards signature of the Protocol as soon as possible, and call for renewed regional dialogue to achieve the goal of a zone free of nuclear weapons, as well as other WMDs and their means of delivery, in the Middle East.

15. We strongly support practical and concrete initiatives which encourage cooperation between nuclear-weapon States and non-nuclear-weapon States to help address the complex challenges involved in the verification of nuclear disarmament such as the UK/Norway Initiative and the International Partnership for Nuclear Disarmament Verification.

16. We hope that the newly formed Open-Ended Working Group on nuclear disarmament will engage in a balanced, constructive dialogue on diverse approaches

since only such a dialogue can lead to consensus results that would help promote future cooperation between nuclear-weapon States and non-nuclear-weapon States.

WMD Non-Proliferation

17. We condemn in the strongest terms the nuclear test on 6 January and the launch using ballistic missile technology on 7 February, 10 March and 18 March conducted by North Korea. It is profoundly deplorable that North Korea has conducted four nuclear tests in the twenty-first century. We urge North Korea not to conduct any further nuclear tests or launches that use ballistic missile technology, nor to engage in any other destabilizing or provocative actions. We renew our strong demand for North Korea to immediately and fully implement the relevant UN Security Council resolutions as well as the Joint Statement of the Six Party Talks of September 2005, and abandon all nuclear weapons and existing nuclear and ballistic missile programmes in a complete, verifiable and irreversible manner, and to return at an early date to the NPT and to International Atomic Energy Agency's (IAEA) safeguards.

18. We strongly condemn North Korea's ongoing nuclear activities including the restart and operation of the 5MW(e) graphite-moderated reactor and the extension and operation of the uranium enrichment facility at Yongbyon, and we urge North Korea to halt all such activities. We reiterate the international community's firm opposition to North Korea's possession of nuclear weapons and urge it to cease all nuclear activities immediately, in accordance with the goal of the verifiable denuclearization of the Korean Peninsula. We reaffirm our shared objective to achieve a diplomatic resolution to North Korea's nuclear and missile issues. We welcome the unanimous adoption of United Nations Security Council Resolution (UNSCR) 2270 on March 2, and call on all States to intensify efforts to address the threat posed by DPRK's nuclear and missile programmes, including through the full implementation of all relevant UN Security Council resolutions.

19. We express grave concern over the findings of the Organization for the Prohibition of Chemical Weapons (OPCW) Fact-Finding Mission (FFM) that chemical weapons continued to be used throughout 2015 in Syria, and we stress the importance of identifying, holding those responsible accountable, and fully verifying that the Chemical Weapons Convention (CWC) declaration and related submissions of Syria are accurate and complete. We underscore our determination to continue our support to the FFM, the OPCW-UN Joint Investigative Mechanism (JIM) and the OPCW's Declaration Assessment Team (DAT), and we urge once again the Syrian Arab Republic to fulfil its obligations under the CWC and UNSCR 2118 (2013), 2209 (2015) and 2235 (2015).

20. We note with concern the current security situation in Libya and stress that it is essential that the remaining chemical weapons precursors in Libya be urgently destroyed.

21. We laud the historic achievement of the JCPOA between the E3/EU+3 and Iran to ensure the Iranian nuclear programme is and remains exclusively peaceful. The agreement must be fully and rigorously implemented. We pledge to do our utmost to ensure that all necessary resources, including financial ones, are made available to IAEA, which assumes the critical responsibility in monitoring and verification to confirm that Iran is meeting its JCPOA commitments. G7 has

voluntarily provided IAEA more than 5 million US dollars for that purpose and we encourage other states to do the same.

22. Recalling UNSCR 2231, we call upon Iran not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology.

23. We stress the central role of IAEA and its safeguards system in the nuclear non-proliferation regime. We continue to promote the universal acceptance of an IAEA Comprehensive Safeguards Agreement together with an Additional Protocol (AP) as the international verification standard. We call upon all States who have not yet done so to sign and bring into force an AP and, where relevant, adopt the modified Small Quantities Protocol. We underscore the importance of the application of IAEA safeguards for peaceful nuclear activities particularly the nuclear fuel cycle, consistent with each state's international obligations.

24. We express grave concern that, despite the IAEA Board of Governors resolution of 9 June 2011, which reported Syria's non-compliance with its Safeguards Agreement to the Security Council and General Assembly of the United Nations, Syria still has to remedy urgently this non-compliance.

25. We support the continuing evolution of IAEA safeguards at the state level and emphasize the importance of maintaining the credibility, effectiveness and integrity of the IAEA safeguards system.

26. We support IAEA's efforts to modernize its safeguards information technology infrastructure by improving tools and applications available to strengthen information security of the safeguards network.

27. We continue to strengthen our efforts to reduce global proliferation threats through international export control regimes (the Nuclear Suppliers Group, Missile Technology Control Regime, and Australia Group) and the Zangger Committee and we call upon all States to enhance the implementation of their national export controls. States in a position to do so are encouraged, where applicable and necessary, to provide capacity-building assistance in this regard.

28. We call upon all States participating in the three aforementioned regimes to act consistently with their Guidelines, encourage all States outside of the regimes to adhere to their Guidelines, and urge all States to exercise vigilance to ensure the supply of items and technology covered by the regimes do not contribute to programmes of proliferation concern.

29. We support further discussions within the NSG towards the establishment of the IAEA Additional Protocol as a condition of supply in the Group's Guidelines.

30. We remain committed to the universalization of the Hague Code of Conduct against Ballistic Missile Proliferation and to promoting appropriate transparency measures on ballistic missile and space launch programmes, as the proliferation of missiles, especially those capable of delivering WMD, poses a threat to international peace and security.

31. We reaffirm our unwavering commitment to the Global Partnership against the Spread of Weapons and Materials of Mass Destruction (GP), which continues to address WMD proliferation threats that exist worldwide, and its funding programmes and coordinating activities to combat chemical, biological, radiological

and nuclear (CBRN) terrorism. We also recognize that GP programmes and activities to combat WMD terrorism are directly relevant to those other forums including the Nuclear Security Summit, BWC Review Conference, and UNSCR 1540 Comprehensive Review this year. In this regard, we welcome that the GP has continuously expanded beyond the G7 and currently includes 30 active members with the recent addition of Georgia, and also welcome the contribution of GP members to the IAEA Nuclear Security Fund for the years 2014-2015 which has amounted to more than 47 million euros.

32. We remain committed to achieving a world safe and secure from biological threats. In this regard, we must be prepared to cooperate among relevant organizations and initiatives to counter potential deliberate biological security threats. We welcome initiatives to strengthen health systems to address naturally occurring and accidental outbreaks, by building measureable and suitable capacity to prevent, detect and rapidly respond to biological threats, including through the GP and the Global Health Security Agenda (GHSA) as well as support for implementing the World Health Organization's International Health Regulations. In this regard, we have offered collectively to assist over 70 countries in the next five years, encouraging others to join in this collective effort.

33. We strongly support the 2nd Comprehensive Review of UNSCR 1540, a resolution that continues to provide an opportunity to strengthen further the efficiency of our efforts to combat proliferation of WMDs and their means of delivery and their potential acquisition by non-state actors, with a view to assessing implementation of the resolution and to improving the assistance process to promote full implementation as soon as possible. We call upon States that have not yet submitted their first national report to the 1540 Committee to do so as soon as possible.

34. We call for additional outreach to industry and other stakeholders to raise awareness and help establish a culture of responsibility in an effort to protect sensitive technologies and know-how against all forms of intangible technology transfer by proliferators, as has already been successfully initiated within the framework of the Wiesbaden process.

35. We continue to support the Proliferation Security Initiative (PSI), which has played an important role in countering WMD proliferation to and from States and non-state actors of proliferation concern, encouraging efforts to strengthen and expand the PSI, including through broadening global support for the 2003 Statement of Interdiction Principles. We call for further effective implementation of the four Joint Statement items and other national declarations at the 2013 High Level Political Meeting, as well as capitalizing on the success of the first Mid-Level Political Meeting, held in 2016, which encouraged the 105 PSI endorsing states to employ PSI's unique proactive and voluntary nature to build capacities and seek new adherents to meet the emerging WMD proliferation challenges for the future.

36. We reaffirm our support for the CWC and the work of the OPCW and continue our efforts to achieve universalization and effective implementation of the CWC. We note with grave concern the allegations of manufacture and use of chemical weapons by ISIL/Da'esh, and express our commitment to working with and through the OPCW and other relevant venues to mitigate the serious threat to international security posed by terrorist use of chemical weapons.

37. We strongly support the Biological and Toxin Weapons Convention as a cornerstone of the international legal regime banning biological weapons and call on all states that are not yet Parties to the Convention to join without delay, and affirm our commitment to strengthening the Convention at the Eighth Review Conference in 2016 in areas including implementation, compliance, science and technology, and preparedness and response to outbreaks of disease, both at the Review Conference and through intersessional work.

38. Building on the lessons learned from 2013 in Syria (the Sellström mission), we welcome and commend the continued effort of UNODA, with support from UN member States, to strengthen the United Nations Secretary-General's Mechanism for Investigation of Alleged Use of Chemical, Biological and Toxin Weapons (SGM) notably through the organization of training courses and exercises of Sweden, the United Kingdom, Germany and France.

Nuclear Security and Safety

39. We welcome all international initiatives to prevent nuclear terrorism. We will continue to support and advocate for strengthening and sustaining further the security of nuclear and other radioactive material.

40. We applaud the success of the fourth Nuclear Security Summit hosted by US President Obama on 31 March-1 April 2016 and, building upon the outcomes of the Nuclear Security Summit process, commit ourselves to further strengthening and coordinating international cooperation on nuclear security, through the United Nations, IAEA, INTERPOL, GICNT and GP Action Plans.

41. We reaffirm the central role of IAEA in the global nuclear security architecture, and strongly support the December 2016 IAEA International Conference on Nuclear Security including its Ministerial segment in maintaining high-level attention and commitment to strengthening nuclear security. We call for high-level participation in this Conference.

42. We recognize the important contribution made by the IAEA International Physical Protection Advisory Service (IPPAS) and International Nuclear Security Advisory Service (INSServ) missions to strengthening nuclear security, and we support the UK-funded International Review Conference marking 20 years of IPPAS missions, to be held in November 2016, as it will provide an opportunity for IAEA Member States to share experience and best practice.

43. We continue to support and participate in IAEA's efforts to develop cybersecurity measures to protect sensitive nuclear information, technologies and facilities.

44. We urge all States to become party to the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT) and the Convention on the Physical Protection of Nuclear Material (CPPNM), as amended in 2005, in order to bring the 2005 Amendment of the CPPNM into force in the course of the year.

45. We support practical and concrete initiatives such as the CBRN Risk Mitigation Centres of Excellence Initiative of the Instrument contributing to Stability and Peace, which permits the EU, together with regional partners, to strengthen CBRN safety and security and thus mitigate CBRN risks in eight regions of the world.

46. We welcome the steady progress on decommissioning and contaminated water management at Fukushima Daiichi Nuclear Power Station over the past five years. We reaffirm the importance of achieving and maintaining high levels of nuclear safety worldwide. We recognize the achievements that the international community has made on nuclear safety since the Fukushima Daiichi accident and IAEA's role in this regard including the implementation of IAEA's Action Plan on Nuclear Safety and the publication of IAEA report on Fukushima Daiichi, and reaffirm our commitment to continue our efforts to ensure highest global nuclear safety and to support IAEA.

47. We confirm the importance of promoting the highest level of nuclear safety in international nuclear transfers and cooperation. We remain committed to facilitate the development of the infrastructure necessary for states embarking on a nuclear power programme according to the highest standards of safety, security and non-proliferation. We urge all countries, when exporting nuclear power plants, to accord with the "OECD Common Approaches for ECA" and to encourage destination states to host relevant IAEA peer review missions, such as Integrated Nuclear Infrastructure Review Mission, Integrated Regulatory Review Service and Site and External Events Design Review Services, prior to commissioning their first nuclear power plant. We encourage newcomer countries to apply IAEA Safety Standards. We remain committed to improving the safety and performance of nuclear and fuel cycle facilities at all stages of the lifecycle, including life extensions and end of life.

48. We recognize the importance of working towards establishing a global nuclear liability regime and encourage all states to join the international nuclear liability instruments as a step towards achieving such a global regime.

49. We encourage all states to become parties to the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management. We support efforts to enhance the implementation of the Convention on Nuclear Safety (CNS), including the February 2015 Vienna Declaration of Nuclear Safety by CNS Contracting Parties. We encourage Contracting Parties' full participation in the 7th Review Meeting of CNS to be held in March 2017, which allows Contracting Parties to both assess their nuclear safety regimes and learn from the best practices of other countries. We urge Contracting Parties to submit comprehensive reports and participate actively in the peer review process.

50. Thirty years after the Chernobyl nuclear catastrophe, we stress the importance of the completion of the Chernobyl nuclear safety projects in order to convert the Chernobyl site into a stable and environmentally safe condition from a safety and functional perspective. In this regard, we emphasize the importance of the successful completion of the Interim Spent Fuel Storage Facility (ISF-2) project, recognizing the need to meet the shortage of the Nuclear Safety Account. We reaffirm, subject to budgetary feasibilities, our commitment to the principles stated on the Memorandum of Understanding signed on 20 December 1995 between the Governments of the G7 member states and the Commission of the European Communities and the Government of Ukraine on the Closure of the Chernobyl Nuclear Power Plant by the Year 2000.

Peaceful Use of Nuclear Energy

51. We recognize that all State Parties to the NPT have an inalienable right to use nuclear energy for peaceful purposes in conformity with their international obligations under articles I, II and III of the NPT, reiterate our willingness to cooperate with States which meet their nuclear non-proliferation obligations and which wish to develop a peaceful civil nuclear programme with full transparency that meets the highest standards of safety, security, non-proliferation and respect for the environment. We encourage all States to work towards enhancing international cooperation in the field of education and training, which is of the utmost importance to the responsible development of nuclear energy.

52. We strongly support IAEA's activities under "Atoms for Peace and Development" under the leadership of Director-General Yukiya Amano aimed at widening and deepening the benefits of peaceful uses of nuclear technology that can also contribute to the achievement of the Sustainable Development Goals (SDGs).

53. In this regard, we actively support IAEA's niche expertise in contributing to the SDGs through its Technical Cooperation Programme, including through providing support to IAEA's Technical Cooperation Fund and Peaceful Uses Initiative, in order to further IAEA's unique contribution in areas such as human health, agriculture, water management and industrial applications, as well as energy and climate change, and also recognizing and supporting IAEA's Programme of Action for Cancer Therapy and its unique expertise in early detection, proper diagnosis, treatment and care of cancer in partnership with other international organizations.

54. We acknowledge the importance of IAEA's Renovation of its Nuclear Application Laboratories (ReNuAL) in Seibersdorf, which is needed to ensure global development needs are met through cutting edge scientific research, and encourage all States to contribute additional funding to ensure that ReNuAL is completed on time and on budget.

55. We encourage the broader membership of the International Science and Technology Center to further promote its activities to support scientists and engineers with knowledge and skills of developing WMDs to engage in peaceful activities.

Control of Small Arms and Light Weapons

56. We are deeply concerned about terrorists' continued use of conventional arms including small arms and light weapons in a series of attacks, and recognize the need to prevent the acquisition and use by terrorist of conventional arms, including small arms and light weapons, as well as weapons such as Man-Portable Air Defence Systems (MANPADS), improvised explosive devices and anti-tank guided missiles.

57. We stress the importance of the relevant international instruments and national laws which help regulate conventional arms transfer to prevent the illicit transfer of conventional arms and their diversion, including in the commission of terrorists acts. We will strengthen cooperation to prevent the transfer of conventional arms to terrorists in the relevant frameworks such as the Wassenaar Arrangement.

58. We continue to promote the universalization of the Arms Trade Treaty (ATT), and full and effective national implementation of its obligations and urge consideration of the UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

59. We call for the UN Register of Conventional Arms to be expanded to include small arms and light weapons as one of its categories of weapons.

60. We call on all states concerned to fully implement the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA); the International Instrument to Enable States to Identify and Trace in a Timely Manner, Illicit Small Arms and Light Weapons (ITI); and the Guidelines of the Wassenaar Arrangement.

61. We endorse steps and efforts at the national, regional and multilateral level that would contribute to preventing the acquisition and use of conventional arms by terrorists, including those steps to reduce and where possible destroy, excessive state-held stockpile and to enhance physical security and stockpile management capabilities in the countries concerned. In this regard, we welcome the initiative taken by Germany in advancing our coordination efforts to enhance cooperation among African states, donor states and implementing partners to combat the illicit transfer of conventional arms in particular in the Sahel region. We will remain engaged in coordinating our efforts in this regard together with regional partners such as the African Union.

Outer Space

62. In order to strengthen a rules-based outer space environment that enhances its safety, security, sustainability and stability, we reiterate the need to evolve and implement, in a prompt and pragmatic manner, principles of responsible behaviour for all outer space activities.

63. We recognize that irresponsible intentional destruction of space objects and the resulting creation and diffusion of long-lived orbital debris, including by ASAT-tests, are serious threats to international peace and security. In this regard, we encourage all States to take appropriate measures to cooperate in good faith to avoid harmful interference with outer space activities and stress the importance of all states, in a manner consistent with international law, to refrain from any action which brings about, directly or indirectly, damage, or destruction, of space objects.

64. We reaffirm our commitment, and call on all states, to review and implement, to the extent practicable, the proposed transparency and confidence-building measures contained in the recommendations of the UN Group of Governmental Experts Report (A/68/189, 29 July 2013) such as information exchange on space policies and strategies, information exchange and notifications related to outer space activities in a timely manner and an effective consultation mechanism.

65. We support efforts to rapidly complete clear, practicable and proven Guidelines for Long-Term Sustainability of Outer Space Activities by the UN Committee on the Peaceful Use of Outer Space (UNCOPUOS) in June 2016 and encourage all Member States of the Committee to play a constructive role to this end.

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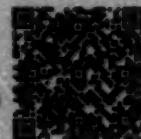
Agenda Item 4

Is there a “Legal Gap for the elimination and prohibition of nuclear weapons”?**Working paper submitted by Canada**

Introduction — Canada fully supports efforts to move toward a world free of nuclear weapons, while also recognizing that how they are undertaken can have important consequences for international stability. This Open-ended Working Group (OEWG) provides an opportunity to further the important debate on how best to take forward multilateral nuclear disarmament negotiations. Some of this debate has been centred on the question of whether or not a legal gap exists. Constructive discussion is essential if we are to succeed in bridging differences in the various approaches to disarmament and achieve our mutual disarmament goals. In this spirit, Canada submits this Working Paper to set forth our position on the legal gap for the prohibition and elimination of nuclear weapons.

Two legal gap arguments: Since it was introduced at the 2014 Humanitarian Impact of Nuclear Weapons Conference in Vienna, the concept of a legal gap for the prohibition and elimination of nuclear weapons has been employed in favour of two distinct arguments. The first argues that the implementation of the Nuclear Non-proliferation Treaty (NPT) contains a number of legal gaps, because Article VI does not specify which effective measures are needed to achieve disarmament. According to this argument, all of the possible effective disarmament measures foreseen as being subject to negotiation under Article VI, constitute legal gaps because they have not yet been identified or addressed. A second argument asserts the existence of a legal gap because there is currently no universal prohibition on the use and possession of nuclear weapons, also commonly referred to as a “ban” on nuclear weapons. While such a ban could also constitute a possible disarmament measure under the NPT, this second argument bypasses the NPT by presupposing that there is a gap in international law because bans exist for other weapons of mass destruction, but not for nuclear weapons.

A closer look at the concept of a legal gap — A legal gap, or *lacuna*, is often defined as “a situation in which there appears to be no law or legal norm applicable



in a particular instance". The mere fact that a law or legal norm has not been imposed does not necessarily mean there is a legal gap. In fact, a true legal gap requires a situation where the absence of a law or legal norm prevents an inherently "illegal" situation from being addressed, or where the applicable law is incomplete such that it prevents States Parties from fulfilling their obligations. For instance, had Article VI of the NPT required States Parties to *implement* effective disarmament measures, without specifying which ones, a legal gap would arguably exist because States Parties would lack the clarity needed to fulfil this obligation.

First legal gap argument: In fact, the first legal gap argument suggests that Article VI of the NPT contains legal gaps that can be filled by the identification of effective measures for disarmament. While effective measures do indeed need to be elaborated in order to achieve disarmament, we do not believe they can be portrayed as filling legal gaps. Article VI reads:

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control".

The legal obligation contained in Article VI is very clear; it calls for States Parties to pursue negotiations in good faith. This was confirmed by the International Court of Justice (ICJ) in its 1996 Advisory Opinion, which concluded unanimously that there *"exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control"*. Article VI therefore contains an obligation to achieve a precise result (nuclear disarmament in all its aspects), and an obligation to achieve this result by adopting a particular conduct (the pursuit of negotiations in good faith).

The full implementation of Article VI is not obstructed by the lack of an appropriate legal norm, but rather by other factors, including the lack of trust and political will necessary to create the conditions for negotiations. The drafters of the NPT deliberately took into account the need for further debate, through negotiations, to determine the required steps to achieve disarmament. When those negotiations do occur, they will not represent the filling of a gap, but rather the fulfilment of a legal obligation that already exists within the treaty. What is being portrayed as a legal gap is simply the possible outcomes of future negotiations, and we cannot say for certain what these will be. This is not to say that work carried out in the absence of negotiations, including by this OEWG, to identify the spectrum of available legal and non-legal measures to achieve disarmament is not useful. On the contrary, Canada believes such groundwork is essential in helping us bridge important differences as we move toward these negotiations.

Second legal gap argument: Proponents of the second argument assert that it is reasonable to assume that a legal gap exists with respect to the use and possession of nuclear weapons, because such prohibitions exist for chemical and biological weapons. However, the fact that a legal norm is suitable for one situation does not mean that a legal gap exists if it is not used for another. Important and legitimate political, social, economic and pragmatic reasons can justify taking different approaches to law-making, depending on the circumstances. Furthermore, by definition, the absence of a ban on nuclear weapons' use and possession can only constitute a legal gap if such use and possession is inherently illegal, based on

applicable international law. Again, while this is an understandable aspiration, the reality is that under current customary international law, the use and possession of nuclear weapons is not illegal.

In the 1996 ICJ Advisory Opinion, the court was unable to conclude that the use of nuclear weapons would be contrary to international law in all circumstances. It determined that "there is in neither customary nor conventional international law any comprehensive and universal prohibition of the threat or use of nuclear weapons as such". Instead, the Court outlined in detail the framework of legal restrictions that has developed over the years that would apply to any use of a nuclear weapon, including the provisions of the UN Charter on the use of force, international humanitarian law, human rights law, environmental law, international treaties banning the use of poisons and gases, and international treaties concerning nuclear weapons. In other words, in the dire event that a state was to use a nuclear weapon, there would be no lack of applicable law. The situation is the same for the *possession* of nuclear weapons, which equally has not been deemed contrary to either conventional or customary international law. In fact, the current international nuclear weapons framework, including the NPT, acknowledges the possession of such weapons and sets out a regime for disarmament. In this regard, legal gap arguments have the potential to be wrongly interpreted as implying there are legal grounds, as opposed to moral or humanitarian grounds, to negotiate a ban on nuclear weapons.

Strategic implications of precipitous negotiations on a ban on nuclear weapons: Above and beyond legal arguments, the strategic merits of proceeding to an immediate ban on nuclear weapons also deserve further consideration. While proceeding with disarmament in incremental steps has already produced dividends, however modest, the effects of an instrument that would place an immediate prohibition on nuclear weapons, particularly in the absence of participation of states that possess nuclear weapons, are far from certain. It is quite possible that the premature negotiation of a ban would intensify existing rifts among states on nuclear issues, creating a less conducive environment for pursuing negotiations in good faith on nuclear disarmament. Similarly, it is possible that the imposition of a ban might have the unintended consequence of imperilling the stability achieved under the NPT.

For instance, proponents of this approach may incorrectly assume that all non-nuclear weapon states, by virtue of having already signed the NPT, would also sign a ban treaty. It is quite conceivable, however, that some NPT States Parties may actually be reluctant to do so, particularly if they are in regions where proliferation threats exist. Such a situation would generate new doubts about the actual commitment of these countries to their NPT obligations for non-proliferation or cooperation in the peaceful uses of nuclear energy. In other words, a ban, negotiated without adequate engagement of major parties, risks creating a less certain world of the sort that existed before the entry into force of the NPT, when many regions were faced with the prospect of nuclear proliferation and uncertainty impeded access to the peaceful uses of nuclear energy. Simply imposing an outright ban would not achieve the requirement of undiminished security for all.

Conclusion — The international community has determined that it is necessary to rid the world of nuclear weapons. Canada shares this aspiration, and agrees that additional disarmament measures need to be developed to meet this goal.

Our own disarmament policy in fact foresees a prohibition on nuclear weapons as part of a final comprehensive and verifiable convention that would help maintain complete disarmament. Where we disagree, however, is that progress toward nuclear disarmament can be made by efforts characterized as filling a legal gap. The NPT remains the cornerstone of the nuclear weapons' architecture and provides a sufficient legal basis for achieving a world free of nuclear weapons through negotiations in good faith.